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11 **UNITED STATES DISTRICT COURT**
CENTRAL DISTRICT OF CALIFORNIA

12 PRAY, INC., a Delaware corporation,

13 Plaintiff,

14 v.

15 CHRISTIAN CARE MINISTRY, INC.,
16 d/b/a MEDI-SHARE, a Delaware
corporation; BRANDON HARVATH, an
17 individual; and EVELIO SILVERA, an
individual,

18 Defendants.
19

Case No. 2:23-cv-10660-SB-JC

[Assigned to The Honorable Stanley
Blumenfeld, Jr.]

20
21 **DEFENDANT EVELIO SILVERA'S**
ANSWER AND AFFIRMATIVE
DEFENSES TO FIRST AMENDED
COMPLAINT

22 Complaint Filed: December 20, 2023
23 FAC Filed: April 19, 2024
24 Trial Date: December 9, 2024
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Pursuant to Federal Rules of Civil Procedure 8, 12, and 13, Defendant Evelio Silvera (“Defendant” or “Silvera”) respectfully submits this Answer and Affirmative Defenses and to Pray, Inc.’s (“Pray”) First Amended Complaint (“FAC”) (Doc. 68). Silvera’s responses are made without waiving, and expressly reserving, all rights and defenses he has to some or all of the claims asserted in the FAC. Except as expressly admitted herein, each and every allegation in the FAC is denied, including any and all allegations that may be implied or inferred from the headings and/or unnumbered paragraphs in the FAC. Silvera answers by admitting or denying the allegations in the FAC as follows:¹

1. Admitted that Pray has brought this case against Christian Care Ministry (“CCM”), Brandon Harvath and Silvera. Silvera denies the remaining allegations in FAC paragraph 1.

2. Denied.

3. Admitted that representatives from Pray and CCM met in 2021. Silvera admits that Plaintiff describes itself as “a tech company, specializing in software development, mobile/online program development, and video/content production,” but otherwise is without the knowledge necessary to attest to the accuracy of sentence 2 in FAC paragraph 3, which is accordingly denied. Silvera denies the allegations in sentence 3 of FAC paragraph 3. Silvera admits that CCM is a faith-based non-profit that administers a healthcare sharing ministry program, wherein like-minded members of the Christian faith community voluntarily share each other’s medical expenses.

¹ Silvera denies each and every allegation in the Complaint not specifically admitted in the following corresponding paragraphs. Silvera denies all factual allegations, arguments, and legal conclusions made in the headings in the FAC.

1 4. Silvera admits that CCM communicated with Pray to explore what CCM
2 believed at the time could be mutually beneficial business opportunities. Silvera denies
3 the remaining allegations in FAC paragraph 4.

4 5. Denied.

5 6. Denied.

6 7. Silvera admits that CCM and Pray executed a Simple Agreement for
7 Future Equity (“SAFE”) that provided CCM the right to certain shares of Pray’s Capital
8 Stock, subject to the terms contained in the SAFE, in exchange for payment by CCM
9 of \$1,500,000. Silvera denies the remaining allegations in FAC paragraph 7.

10 8. FAC paragraph 8 calls for a legal conclusion to which no response is
11 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

12 9. FAC paragraph 9 calls for a legal conclusion to which no response is
13 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

14 10. Silvera is informed that CCM and Pray executed a Strategic Marketing and
15 Support Agreement (“SMSA”) dated May 6, 2022. The SMSA speaks for itself, to the
16 extent it exists, and Silvera denies the allegations in Paragraph 17 to the extent they
17 purport to characterize or interpret the SMSA. Silvera further denies that the SMSA is
18 a valid or enforceable contract. Silvera denies the remaining allegations in FAC
19 paragraph 10.

20 11. FAC paragraph 11 calls for a legal conclusion to which no response is
21 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

22 12. Silvera admits that he interacted with one or more representatives of Pray
23 “in-person” on four occasions “in California.” Silvera otherwise denies the allegations
24 in FAC Paragraph 12.

25 13. FAC paragraph 13 calls for a legal conclusion to which no response is
26 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

27 14. FAC paragraph 14 calls for a legal conclusion to which no response is
28 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

1 15. FAC paragraph 15 calls for a legal conclusion to which no response is
2 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

3 16. Silvera denies the allegations in FAC paragraph 16 concerning Silvera.
4 Silvera is without knowledge to attest as to the remaining allegations in this paragraph,
5 which are accordingly denied.

6 17. Denied.

7 18. Silvera is without the knowledge necessary to attest whether the
8 allegations in sentences 1 or 2 of FAC paragraph 18 are true, and accordingly denies
9 them. Silvera denies the remaining allegations in this paragraph.

10 19. Denied.

11 20. FAC paragraph 20 calls for a legal conclusion to which no response is
12 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

13 21. Denied.

14 22. Silvera denies that that Ben Allison showed Matthew Potter “a demo of
15 CCM’s product” on the grounds that no such “demo” ever existed. Silvera lacks
16 knowledge necessary to attest whether the allegations in FAC paragraph 22 regarding
17 the interaction between Matthew Potter and Ben Alison are accurate, and accordingly
18 denies them. Silvera denies the remaining allegations in this paragraph.

19 23. Silvera denies that that Ben Allison showed Matthew Potter “a demo of
20 CCM’s product” on the grounds that no such “demo” ever existed. Silvera denies the
21 remaining allegations in FAC paragraph 23.

22 24. Silvera admits that, at the 2023 Know Hope World Conference, Harvath
23 and Tim Clinton made an announcement, and that the announcement included a
24 statement that CCM and the American Association of Christian Counselors (“AACC”)
25 planned to create a faith-based mental health network. Silvera further admits that
26 Plaintiff has brought this action against CCM, Harvath, and Silvera. Sentence 3 of FAC
27 paragraph 24 calls for a legal conclusion to which no response is necessary. Silvera
28 otherwise denies the remaining allegations in this paragraph.

1 25. Silvera admits that Plaintiff is a Delaware corporation. Silvera lacks
2 knowledge or information sufficient to form a belief regarding the truth of the remaining
3 allegations in FAC paragraph 25 and therefore denies those allegations.

4 26. Silvera denies that CCM is a Delaware corporation. Silvera admits that
5 CCM's principal place of business is in Florida.

6 27. Admitted that Harvath is an individual. Admitted that Harvath was CCM's
7 Chief Operating Officer and was then CCM's Chief Executive Officer. Silvera lacks
8 the knowledge or information necessary to form a belief regarding the remaining
9 allegations in FAC paragraph 27 and, therefore, denies these allegations.

10 28. Silvera admits he resides in Florida and was CCM's Vice President of
11 Communications and Strategy. FAC paragraph 28 is otherwise denied.

12 29. FAC paragraph 29 calls for legal conclusions to which no response is
13 required. To the extent an answer is required, Silvera denies violating any law, federal
14 or otherwise.

15 30. FAC paragraph 30 calls for legal conclusions to which no response is
16 required.

17 31. FAC paragraph 31 calls for legal conclusions to which no response is
18 required.

19 32. FAC paragraph 32 calls for legal conclusions to which no response is
20 required. To the extent this paragraph contains any factual allegations, Silvera denies
21 them.

22 33. Silvera admits that he interacted with one or more representatives of Pray
23 "in-person" on four occasions "in California," that he exchanged emails with Pray
24 personnel, and that he engaged with Pray personnel from time to time on various
25 subjects via videoconferencing while located outside of California. Silvera otherwise
26 denies the allegations in this paragraph.

27 34. Silvera admits that he interacted with representatives of Pray "in
28 California" for total times, in June 2022, August 2022, September 2022, and August

1 2023. Silvera otherwise denies the allegations of FAC paragraph 34 as
2 mischaracterizing events.

3 35. With respect to the first sentence of FAC paragraph 35, Silvera admits that
4 he participated in Zoom videoconferences with Pray representatives while Silvera was
5 located outside of California, but is without knowledge of the specific number alleged
6 in the FAC. Sentences 2 and 3 of this paragraph call for legal conclusions to which no
7 response is required. Silvera denies the remaining allegations in this paragraph.

8 36. Silvera admits that he participated in six Google Meet-Up
9 videoconferences with representatives of Pray while Silvera was located outside of
10 California. Silvera is without knowledge of the number of Google Meet-Up
11 videoconferences attended by Harvath and therefore denies the allegation related to
12 Harvath. Silvera otherwise denies the allegations in FAC paragraph 36.

13 37. Silvera admits that he participated in one Microsoft Teams meeting with
14 representatives of Pray while Silvera was located outside of California, but is without
15 knowledge as to whether Harvath attended.

16 38. Silvera denies the factual allegations of FAC paragraph 38. The remainder
17 of FAC paragraph 38 calls for legal conclusions to which no responses are necessary.

18 39. Silvera denies the factual allegations of FAC paragraph 39. The remainder
19 of FAC paragraph 39 calls for legal conclusions to which no responses are necessary.

20 40. Silvera denies the factual allegations of FAC paragraph 40. The remainder
21 of FAC paragraph 40 calls for legal conclusions to which no responses are necessary.

22 41. Silvera denies the factual allegations of FAC paragraph 41. The remainder
23 of FAC paragraph 41 calls for legal conclusions to which no responses are necessary.

24 42. Silvera denies the factual allegations of FAC paragraph 42. The remainder
25 of FAC paragraph 42 calls for legal conclusions to which no responses are necessary.

26 43. FAC paragraph 43 calls for legal conclusions to which no responses are
27 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies any
28 allegation in this paragraph to the extent Plaintiff purports to characterize or interpret

1 the SMSA. Silvera otherwise denies all other allegations in this paragraph.

2 44. Without knowledge and, therefore, denied.

3 45. Silvera is without the knowledge or information necessary to form a belief
4 regarding the truth of the allegations in FAC paragraph 45 and, therefore, denies these
5 allegations.

6 46. Without knowledge and, therefore, denied.

7 47. Without knowledge and, therefore, denied.

8 48. Without knowledge and, therefore, denied.

9 49. Without knowledge and, therefore, denied.

10 50. Without knowledge and, therefore, denied.

11 51. Without knowledge and, therefore, denied.

12 52. Without knowledge and, therefore, denied.

13 53. Without knowledge and, therefore, denied.

14 54. Without knowledge and, therefore, denied.

15 55. Without knowledge and, therefore, denied.

16 56. Without knowledge and, therefore, denied.

17 57. Without knowledge and, therefore, denied.

18 58. Without knowledge and, therefore, denied.

19 59. Without knowledge and, therefore, denied.

20 60. Silvera is without the knowledge or information necessary to form a belief
21 regarding the truth of the allegations in sentence 1 and 2 of FAC paragraph 60 and,
22 therefore, denies these allegations. The allegations in sentence 3 of FAC paragraph 60
23 are admitted.

24 61. Without knowledge and, therefore, denied.

25 62. Denied.

26 63. Denied.

27 64. Without knowledge and, therefore, denied.

28 65. Denied.

1 66. FAC paragraph 66 calls for legal conclusions to which no responses are
2 necessary. Silvera otherwise denies all other allegations in this paragraph.

3 67. Without knowledge and, therefore, denied.

4 68. Without knowledge and, therefore, denied.

5 69. Without knowledge and, therefore, denied.

6 70. Without knowledge and, therefore, denied.

7 71. Silvera denies the allegations in sentence 3 of FAC paragraph 71. Silvera
8 is without the knowledge or information necessary to form a belief regarding the truth
9 of the remaining allegations in this paragraph and, therefore, denies these allegations.

10 72. Without knowledge and, therefore, denied.

11 73. Without knowledge and, therefore, denied.

12 74. Without knowledge and, therefore, denied.

13 75. Without knowledge and, therefore, denied.

14 76. Denied.

15 77. Denied.

16 78. Denied.

17 79. Denied.

18 80. Without knowledge and, therefore, denied.

19 81. Without knowledge and, therefore, denied.

20 82. Denied.

21 83. FAC paragraph 83 calls for legal conclusions to which no responses are
22 necessary. Silvera is without the knowledge or information necessary to form a belief
23 regarding the truth of the remainder of the allegations in FAC paragraph 83 and,
24 therefore, denies these allegations.

25 84. FAC paragraph 84 calls for legal conclusions to which no responses are
26 necessary. Silvera is without the knowledge or information necessary to form a belief
27 regarding the truth of the remaining allegations in FAC paragraph 84 and, therefore,
28 denies these allegations.

1 85. Without knowledge and, therefore, denied.

2 86. FAC paragraph 86 calls for legal conclusions to which no responses are
3 necessary. Silvera is without the knowledge or information necessary to form a belief
4 regarding the truth of the allegations in FAC paragraph 86 and, therefore, denies these
5 allegations.

6 87. FAC paragraph 87 calls for legal conclusions to which no responses are
7 necessary. Silvera is without the knowledge or information necessary to form a belief
8 regarding the truth of the allegations in FAC paragraph 87 and, therefore, denies these
9 allegations.

10 88. Without knowledge and, therefore, denied.

11 89. Silvera admits CCM is a faith-based non-profit that administers a
12 healthcare sharing ministry program, wherein like-minded members of the Christian
13 faith community voluntarily share each other's medical expenses. Silvera otherwise
14 denies the remaining allegations in FAC paragraph 89.

15 90. Silvera admits CCM communicated with Pray to explore what CCM
16 believed at the time could be mutually beneficial business opportunities. Silvera denies
17 the remaining allegations in FAC paragraph 90.

18 91. Silvera admits that Harvath was CCM's COO and then CEO. Silvera
19 further admits that he was CCM's Vice President of Communications & Government
20 Affairs. Silvera denies the remaining allegations in FAC paragraph 91.

21 92. Silvera admits that CCM and Pray executed a Non-Disclosure Agreement.
22 Silvera is without the knowledge or information necessary to form a belief regarding
23 the truth of the allegations in the second sentence of FAC paragraph 92 and, therefore,
24 denies these allegations. Silvera denies the third sentence of FAC paragraph 92.

25 93. FAC paragraph 93 calls for legal conclusions to which no responses are
26 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

27 94. Denied.

28 95. Denied.

1 96. Denied.

2 97. Denied.

3 98. FAC paragraph 98 calls for a legal conclusion to which no response is
4 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

5 99. FAC paragraph 99 calls for a legal conclusion to which no response is
6 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

7 100. FAC paragraph 100 calls for legal conclusions to which no responses are
8 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

9 101. FAC paragraph 101 calls for legal conclusions to which no responses are
10 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

11 102. FAC paragraph 102 calls for legal conclusions to which no responses are
12 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

13 103. FAC paragraph 103 calls for legal conclusions to which no responses are
14 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

15 104. FAC paragraph 104 calls for legal conclusions to which no responses are
16 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
17 allegations in this paragraph to the extent Pray purports to characterize or interpret the
18 SMSA. Silvera otherwise denies the remaining allegations in this paragraph.

19 105. FAC paragraph 105 calls for legal conclusions to which no responses are
20 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
21 allegations in this paragraph to the extent Pray purports to characterize or interpret the
22 SMSA. Silvera otherwise denies the remaining allegations in this paragraph.

23 106. FAC paragraph 106 calls for legal conclusions to which no responses are
24 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
25 allegations in this paragraph to the extent Pray purports to characterize or interpret the
26 SMSA. Silvera otherwise denies the remaining allegations in this paragraph.

27 107. FAC paragraph 107 calls for legal conclusions to which no responses are
28 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies the

1 allegations in this paragraph to the extent Pray purports to characterize or interpret the
2 SMSA. Silvera otherwise denies the remaining allegations in this paragraph.

3 108. FAC paragraph 108 calls for legal conclusions to which no responses are
4 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
5 allegations in this paragraph to the extent Pray purports to characterize or interpret the
6 SMSA. Silvera otherwise denies the remaining allegations in this paragraph.

7 109. FAC paragraph 109 calls for legal conclusions to which no responses are
8 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
9 allegations in this paragraph to the extent Pray purports to characterize or interpret the
10 SMSA. Silvera otherwise denies the remaining allegations in this paragraph.

11 110. Silvera admits that CCM and Pray executed a SAFE agreement. The SAFE
12 agreement provided CCM the right to certain shares of Pray's Capital Stock, subject to
13 the terms contained in the SAFE, in exchange for payment by CCM of \$1,500,000.
14 Silvera denies the remaining allegations in FAC paragraph 110.

15 111. FAC paragraph 111 calls for legal conclusions to which no responses are
16 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

17 112. FAC paragraph 112 calls for legal conclusions to which no responses are
18 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
19 allegations in this paragraph to the extent Pray purports to characterize or interpret the
20 SMSA. Silvera otherwise denies the remaining allegations in this paragraph.

21 113. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
22 allegations in FAC paragraph 113 to the extent Pray purports to characterize or interpret
23 the SMSA. Silvera otherwise denies the remaining allegations in this paragraph.

24 114. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
25 allegations in FAC paragraph 114 and footnote 2 to the extent Pray purports to
26 characterize or interpret the SMSA. Silvera otherwise denies the remaining allegations
27 in this paragraph, including within footnote 2.

28 115. FAC paragraph 115 calls for legal conclusions to which no responses are

1 necessary. These documents speak for themselves, and Silvera denies the allegations
2 in this paragraph to the extent Pray purports to characterize or interpret these
3 documents. Silvera otherwise denies the remaining allegations in this paragraph.

4 116. Silvera responds that the document cited in FAC paragraph 116 speaks for
5 itself, to the extent it exists, and to the extent Pray purports to characterize or interpret
6 this document, Silvera denies. Silvera denies the remaining allegations in FAC
7 paragraph 116.

8 117. Without knowledge and, therefore, denied.

9 118. FAC paragraph 118 calls for legal conclusions to which no responses are
10 necessary. The Master Subscription Agreement and the SMSA speak for themselves,
11 to the extent they exist, and Silvera denies the allegations in this paragraph to the extent
12 Pray purports to characterize or interpret these documents. Silvera is also without the
13 knowledge or information necessary to form a belief regarding the truth of the
14 allegations in FAC paragraph 118 and, therefore, denies these allegations.

15 119. Silvera is without the knowledge or information necessary to form a belief
16 regarding the truth of the allegations in FAC paragraph 119 and, therefore, denies these
17 allegations. FAC paragraph 119 calls for legal conclusions to which no responses are
18 necessary.

19 120. FAC paragraph 120 calls for legal conclusions to which no responses are
20 necessary. The Insertion Orders and the SMSA speak for themselves, to the extent they
21 exist, and Silvera denies the allegations in this paragraph to the extent Pray purports to
22 characterize or interpret these documents. Silvera is also without the knowledge or
23 information necessary to form a belief regarding the truth of the allegations in FAC
24 paragraph 120 and, therefore, denies these allegations.

25 121. FAC paragraph 121 calls for legal conclusions to which no responses are
26 necessary. The Insertion Orders and the SMSA speak for themselves, to the extent they
27 exists, and Silvera denies the allegations in this paragraph to the extent Pray purports to
28 characterize or interpret these documents. Silvera is also without the knowledge or

1 information necessary to form a belief regarding the truth of the allegations in FAC
2 paragraph 121 and, therefore, denies these allegations.

3 122. Silvera is without the knowledge or information necessary to form a belief
4 regarding the truth of the allegations in FAC paragraph 122 and, therefore, denies these
5 allegations. FAC paragraph 122 calls for legal conclusions to which no responses are
6 necessary. The documents referenced in this paragraph speak for themselves, to the
7 extent they exist, and Silvera denies the allegations in this paragraph to the extent Pray
8 purports to characterize or interpret these documents.

9 123. FAC paragraph 123 calls for legal conclusions to which no responses are
10 necessary. The Statement of Work, Purchase Orders, and the SMSA speak for
11 themselves, to the extent they exist, and Silvera denies the allegations in this paragraph
12 to the extent Pray purports to characterize or interpret these documents. Silvera is also
13 without the knowledge or information necessary to form a belief regarding the truth of
14 the allegations in FAC paragraph 123 and, therefore, denies these allegations.

15 124. FAC paragraph 124 calls for legal conclusions to which no responses are
16 necessary. The Statement of Work, Purchase Orders, and the SMSA speak for
17 themselves, to the extent they exist, and Silvera denies the allegations in this paragraph
18 to the extent Pray purports to characterize or interpret these documents. Silvera is also
19 without the knowledge or information necessary to form a belief regarding the truth of
20 the allegations in FAC paragraph 124 and, therefore, denies these allegations.

21 125. The Statement of Work, Purchase Orders, and the SMSA speak for
22 themselves, to the extent they exist, and Silvera denies the allegations in this paragraph
23 to the extent Pray purports to characterize or interpret these documents. Silvera is also
24 without the knowledge or information necessary to form a belief regarding the truth of
25 the allegations in FAC paragraph 125 and, therefore, denies these allegations.

26 126. Without knowledge and, therefore, denied.

27 127. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
28 allegations in FAC paragraph 127 to the extent Pray purports to characterize or interpret

1 the SMSA. Silvera denies the allegations in the second sentence of this paragraph.
2 Silvera is also without the knowledge or information necessary to form a belief
3 regarding the truth of the remaining allegations in FAC paragraph 127 and, therefore,
4 denies these allegations.

5 128. FAC paragraph 128 calls for legal conclusions to which no responses are
6 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
7 allegations in FAC paragraph 128 to the extent Pray purports to characterize or interpret
8 the SMSA. Silvera is also without the knowledge or information necessary to form a
9 belief regarding the truth of the allegations in FAC paragraph 128 and, therefore, denies
10 these allegations.

11 129. Denied.

12 130. FAC paragraph 130 calls for legal conclusions to which no responses are
13 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

14 131. FAC paragraph 131 calls for legal conclusions to which no responses are
15 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
16 allegations in FAC paragraph 131 to the extent Pray purports to characterize or interpret
17 the SMSA. Silvera otherwise denies the remaining allegations in this paragraph.

18 132. Silvera admits allegations in FAC paragraph 132 to the extent that Potter
19 and Silvera both attended a group dinner with several other people on June 13, 2022,
20 and to the extent that the same day Elsita Sanya sent an email to Silvera which did ask
21 in part: “Who would be the right person to brainstorm ideas around building out the
22 PRAY Health brand and engaging CCM into the product and services we’ll start selling
23 under these efforts?”. FAC paragraph 132 calls for legal conclusions to which no
24 responses are necessary. Silvera otherwise denies the remaining allegations in this
25 paragraph.

26 133. FAC paragraph 133 calls for legal conclusions to which no responses are
27 necessary. Silvera admits he interacted in person, in California, with Pray
28 representatives, once in August 2022, once in September 2022, and once in April 2023,

1 and that during these interactions various business issues were discussed. Silvera
2 otherwise denies the remaining allegations in this paragraph.

3 134. FAC paragraph 134 calls for legal conclusions to which no responses are
4 necessary. The SMSA speaks for itself, to the extent it exists, and Silvera denies the
5 allegations in FAC paragraph 134 to the extent Pray purports to characterize or interpret
6 the SMSA. Silvera is otherwise without the knowledge or information necessary to
7 form a belief regarding the truth of the remaining allegations in FAC paragraph 134
8 and, therefore, denies these allegations.

9 135. Silvera admits that the text message conversations include the partial
10 quotations recounted in FAC paragraph 135, but denies any characterization of those
11 messages or any inference that the full meaning of those text conversations is conveyed
12 in paragraph 135. This paragraph also calls for legal conclusions to which no responses
13 are necessary. Silvera otherwise denies the remaining allegations in this paragraph.

14 136. Silvera admits that the text message conversations include the partial
15 quotations recounted in FAC paragraph 136, but denies any characterization of those
16 messages or any inference that the full meaning of those text conversations is conveyed
17 in paragraph 136. FAC paragraph 136 calls for legal conclusions to which no responses
18 are necessary. Silvera otherwise denies the remaining allegations in this paragraph.

19 137. FAC paragraph 137 calls for legal conclusions to which no responses are
20 necessary. Silvera is without knowledge or information necessary to form a belief
21 regarding the truth of the allegations in the first, second, and third sentences of this
22 paragraph and, therefore, denies these allegations. Silvera otherwise denies the
23 allegations in paragraph 137.

24 138. Silvera admits that he sent an email stating he was available at 4:00 pm
25 EST on July 11, 2023, to have a call, and that the email subject line is accurately quoted
26 in FAC paragraph 138. Silvera denies that he knew Gatena, Lynn, and Potter would
27 be in California during this call, and is without the knowledge or information necessary
28 to form a belief regarding the truth of the remaining allegations in the third sentence of

1 this paragraph and, therefore, denies these allegations. Sentence 4 of this paragraph
2 calls for legal conclusions to which no responses are necessary. Silvera otherwise
3 denies the remaining allegations in this paragraph.

4 139. Silvera admits that text message conversations between Silvera, Potter,
5 Gatena, and Lynn include the partial quotations recounted in FAC paragraph 139, but
6 denies any characterization of those messages or any inference that the full meaning of
7 those text conversations is conveyed in paragraph 139.

8 140. Silvera admits that the text message conversations include the partial
9 quotations recounted in FAC paragraph 140, but denies any characterization of those
10 messages or any inference that the full meaning of those text conversations is conveyed
11 in paragraph 140.

12 141. Regarding the first sentence of FAC paragraph 141, Silvera admits he sent
13 the referenced email on July 303, 2023, and that it included the term “Pray Health
14 Feature Set.” Silvera denies the third sentence of FAC paragraph 141. Silvera
15 otherwise denies the remaining allegations in this paragraph.

16 142. Silvera admits that the email referenced in FAC paragraph 142 includes
17 the partial quotations recounted in FAC paragraph 142, but denies any characterization
18 of that email or any inference that the full meaning of that email is conveyed in
19 paragraph 142.

20 143. Silvera admits that the email referenced in FAC paragraph 143 includes
21 the partial quotations recounted in FAC paragraph 143, but denies any characterization
22 of that email or any inference that the full meaning of that email is conveyed in
23 paragraph 143.

24 144. FAC paragraph 144 calls for legal conclusions to which no responses are
25 necessary. Silvera otherwise denies the remaining allegations in this paragraph.

26 145. Silvera admits that in August 2023, Harvath was serving as CCM’s Chief
27 Executive Officer, and further admits that a presentation to CCM was scheduled for late
28 August 2023. Silvera otherwise denies the remaining allegations in FAC paragraph

1 145.

2 146. The first and third sentences of FAC paragraph 146 calls for a legal
3 conclusion to which no response is necessary. Silvera denies that “Harvath and Silvera
4 dragged their feet.” Silvera admits that Lynn shared the draft addendum referenced in
5 this paragraph with him and that neither he nor Harvath signed this document. Silvera
6 otherwise denies the remaining allegations in this paragraph.

7 147. Silvera lacks knowledge or information sufficient to form a belief
8 regarding the truth of the allegations in FAC paragraph 147 and, therefore, denies these
9 allegations.

10 148. Silvera admits that the parties held a meeting in late August 2023.
11 Sentence 2 of FAC paragraph 148 calls for legal conclusions to which no responses are
12 necessary. Silvera otherwise denies the remaining allegations in this paragraph,
13 including any implication or inference that Pray showed a PowerPoint deck with content
14 solely created by Pray.

15 149. The PowerPoint deck referenced in FAC paragraph 149 speaks for itself,
16 and Silvera denies the allegations in this paragraph to the extent Pray purports to
17 characterize or interpret this document. Silvera is without the knowledge or information
18 necessary to form a belief regarding the truth of the allegations in sentence 3 of this
19 paragraph and, therefore, denies these allegations. Silvera denies any implication or
20 inference that Pray showed a PowerPoint deck with content solely created by Pray.

21 150. The PowerPoint deck referenced in FAC paragraph 150 speaks for itself,
22 and Silvera denies the allegations in this paragraph to the extent Pray purports to
23 characterize or interpret this document. Silvera is without the knowledge or information
24 necessary to form a belief regarding the truth of the allegations in sentence 2 of this
25 paragraph and, therefore, denies these allegations. Silvera denies any implication or
26 inference that Pray showed a PowerPoint deck with content solely created by Pray.

27 151. The PowerPoint deck referenced in FAC paragraph 151 speaks for itself,
28 and Silvera denies the allegations in this paragraph to the extent Pray purports to

1 characterize or interpret this document. Silvera otherwise denies the remaining
2 allegations in this paragraph. Silvera denies any implication or inference that Pray
3 showed a PowerPoint deck with content solely created by Pray.

4 152. Silvera admits that Plaintiff and CCM at various times discussed the
5 possibility of CCM acquiring a seat on Plaintiff's board of directors. Silvera is without
6 the knowledge or information necessary to form a belief regarding the truth of the
7 allegations in sentence 2 of this paragraph and, therefore, denies these allegations.
8 Silvera otherwise denies the remaining allegations in this paragraph.

9 153. Silvera is without the knowledge or information necessary to form a belief
10 regarding the truth of the allegations in the first sentence of FAC paragraph 153 and,
11 therefore, denies these allegations. Silvera denies the second sentence of FAC
12 paragraph 153.

13 154. Silvera admits that Plaintiff and CCM at various times had discussed the
14 possibility of CCM acquiring a seat on Plaintiff's board of directors. Silvera lacks
15 knowledge or information sufficient to form a belief regarding the truth of the
16 allegations in FAC paragraph 154 that pertain only to Brandon Harvath and, therefore,
17 denies those allegations. Silvera denies the remaining allegations in this paragraph.

18 155. Silvera lacks knowledge or information sufficient to form a belief
19 regarding the truth of the allegations in first sentence of FAC paragraph 155 and,
20 therefore, denies those allegations. Regarding the remainder of paragraph 155, Silvera
21 admits that the text message conversations include the partial quotations recounted in
22 FAC paragraph 155, but denies any characterization of those messages or any inference
23 that the full meaning of those text conversations is conveyed in this paragraph.

24 156. Silvera admits that CCM attempted to reschedule a meeting with Plaintiff.
25 Silvera denies the remaining allegations in FAC paragraph 156.

26 157. Silvera lacks knowledge or information sufficient to form a belief
27 regarding the truth of the allegations in FAC paragraph 157 that pertain only to Brandon
28 Harvath and/or Pray and, therefore, denies those allegations. Silvera denies the

1 remaining allegations in this paragraph.

2 158. Silvera admits that in September 2023 AACC hosted a Know Hope World
3 Conference in Nashville, Tennessee. Silvera denies the remaining allegations in FAC
4 paragraph 158.

5 159. Silvera admits that Potter attended the Know Hope World Conference.
6 Silvera lacks knowledge or information sufficient to form a belief regarding the truth of
7 the allegations in the third, fourth, and fifth sentences of FAC paragraph 159 and,
8 therefore, denies those allegations. The sixth sentence of this paragraph calls for legal
9 conclusions to which no responses are necessary. Silvera denies the remaining
10 allegations in this paragraph.

11 160. Silvera denies that Ben Allison showed Matthew Potter “demo” of CCM’s
12 product on the grounds that no such “demo” ever existed. The third sentence of FAC
13 paragraph 160 calls for legal conclusions to which no responses are necessary. Silvera
14 lacks knowledge or information sufficient to form a belief regarding the truth of the
15 remaining allegations in this sentence and, therefore, denies those allegations.

16 161. Silvera denies that Ben Allison showed Matthew Potter “demo” of CCM’s
17 product on the grounds that no such “demo” ever existed. FAC paragraph 161 calls for
18 legal conclusions to which no responses are necessary. Silvera denies the remaining
19 allegations in this paragraph.

20 162. FAC paragraph 162 calls for legal conclusions to which no responses are
21 necessary. Silvera denies the remaining allegations in this paragraph.

22 163. Silvera denies FAC paragraph 163 to the extent it is based on the “demo
23 referred to in prior paragraphs because no such “demo” ever existed. Silvera lacks
24 knowledge or information sufficient to form a belief regarding the truth of what “Potter
25 recognized” and, therefore, denies those allegations. Silvera denies the remaining
26 allegations in this paragraph.

27 164. Silvera denies FAC paragraph 164 to the extent it is based on the “demo
28 referred to in prior paragraphs because no such “demo” ever existed. Silvera lacks

1 knowledge or information sufficient to form a belief regarding the truth of what “Allison
2 told Potter” and, therefore, denies those allegations. Silvera denies the remaining
3 allegations in this paragraph.

4 165. Silvera denies FAC paragraph 165 to the extent it is based on the “demo
5 referred to in prior paragraphs because no such “demo” ever existed. FAC paragraph
6 165 calls for legal conclusions to which no responses are necessary. Silvera denies the
7 remaining allegations in this paragraph.

8 166. FAC paragraph 166 calls for legal conclusions to which no responses are
9 necessary. Silvera denies the remaining allegations in this paragraph.

10 167. FAC paragraph 167 calls for legal conclusions to which no responses are
11 necessary. Silvera denies the remaining allegations in this paragraph.

12 168. FAC paragraph 168 calls for legal conclusions to which no responses are
13 necessary. Silvera denies the remaining allegations in this paragraph.

14 169. FAC paragraph 169 calls for legal conclusions to which no responses are
15 necessary. Silvera denies the remaining allegations in this paragraph.

16 170. FAC paragraph 170 calls for legal conclusions to which no responses are
17 necessary. Silvera denies the remaining allegations in this paragraph.

18 171. FAC paragraph 171 calls for legal conclusions to which no responses are
19 necessary. Silvera denies the remaining allegations in this paragraph.

20 172. Silvera admits that Harvath and Clinton made an announcement at the
21 2023 Know Hope World Conference. Silvera denies the remaining allegations in FAC
22 paragraph 172.

23 173. Silvera admits that Harvath and Clinton made an announcement at the
24 2023 Know Hope World Conference. Silvera denies the remaining allegations in FAC
25 paragraph 173.

26 174. Silvera admits Harvath gave a speech at the Know Hope World Conference
27 in September 2023, but denies insofar as FAC paragraph 174 does not accurately
28 characterize this speech. Silvera denies the remaining allegations in this paragraph.

1 175. Silvera admits he and Harvath filmed a segment to discuss the Know Hope
2 World Conference announcement, but denies insofar as FAC paragraph 175 does not
3 accurately characterize this segment. Silvera denies the remaining allegations in this
4 paragraph.

5 176. Denied.

6 177. Denied.

7 178. Denied.

8 179. Denied.

9 180. The first sentence of FAC paragraph 180 is denied as to Silvera. Silvera
10 also lacks knowledge or information sufficient to form a belief regarding what Potter
11 may have “seen” and, therefore, denies these allegations. Silvera denies the remaining
12 allegations in this paragraph.

13 181. Silvera lacks knowledge or information sufficient to form a belief
14 regarding the allegations in FAC paragraph 181 and, therefore, denies these allegations.

15 182. Silvera admits that CCM engaged a public-relations firm called A. Larry
16 Ross for various matters. Silvera denies the remaining allegations in FAC paragraph
17 182.

18 183. Silvera admits that he forwarded a news story detailing allegations of fraud
19 against Tim Clinton. Silvera otherwise denies the allegations in FAC paragraph 183.

20 184. Silvera admits that Harvath and Clinton made an announcement at the
21 2023 Know Hope World Conference. Silvera denies the remaining allegations in FAC
22 paragraph 184.

23 185. FAC paragraph 185 calls for a legal conclusion to which no response is
24 necessary. Silvera denies the remaining allegations in FAC paragraph 185.

25 186. FAC paragraph 186 calls for legal conclusions to which no responses are
26 necessary. The SMSA speaks for itself, and Silvera denies the allegations in this
27 paragraph to the extent Pray purports to characterize or interpret the SMSA. Silvera
28 otherwise denies the remaining allegations in this paragraph.

1 187. FAC paragraph 187 is directed to co-Defendant CCM and, thus, no
2 response is required. To the extent any response is required, Silvera denies the
3 allegations set forth in this paragraph.

4 188. FAC paragraph 188 is directed to co-Defendant CCM and, thus, no
5 response is required. To the extent any response is required, Silvera denies the
6 allegations set forth in this paragraph.

7 189. FAC paragraph 189 is directed to co-Defendant CCM and, thus, no
8 response is required. To the extent any response is required, Silvera denies the
9 allegations set forth in this paragraph.

10 190. FAC paragraph 190 is directed to co-Defendant CCM and, thus, no
11 response is required. To the extent any response is required, Silvera denies the
12 allegations set forth in this paragraph.

13 191. FAC paragraph 191 is directed to co-Defendant CCM and, thus, no
14 response is required. To the extent any response is required, Silvera denies the
15 allegations set forth in this paragraph.

16 192. FAC paragraph 192 is directed to co-Defendant CCM and, thus, no
17 response is required. To the extent any response is required, Silvera denies the
18 allegations set forth in this paragraph.

19 193. FAC paragraph 193 is directed to co-Defendant CCM and, thus, no
20 response is required. To the extent any response is required, Silvera denies the
21 allegations set forth in this paragraph.

22 194. FAC paragraph 194 is directed to co-Defendant CCM and, thus, no
23 response is required. To the extent any response is required, Silvera denies the
24 allegations set forth in this paragraph.

25 195. FAC paragraph 195 is directed to co-Defendant CCM and, thus, no
26 response is required. To the extent any response is required, Silvera denies the
27 allegations set forth in this paragraph.

28 196. FAC paragraph 196 is directed to co-Defendant CCM and, thus, no

1 response is required. To the extent any response is required, Silvera denies the
2 allegations set forth in this paragraph.

3 197. FAC paragraph 197 is directed to co-Defendant CCM and, thus, no
4 response is required. To the extent any response is required, Silvera denies the
5 allegations set forth in this paragraph.

6 198. FAC paragraph 198 is directed to co-Defendant CCM and, thus, no
7 response is required. To the extent any response is required, Silvera denies the
8 allegations set forth in this paragraph.

9 199. FAC paragraph 199 is directed to co-Defendant CCM and, thus, no
10 response is required. To the extent any response is required, Silvera denies the
11 allegations set forth in this paragraph.

12 200. FAC paragraph 200 is directed to co-Defendant CCM and, thus, no
13 response is required. To the extent any response is required, Silvera denies the
14 allegations set forth in this paragraph.

15 201. FAC paragraph 201 is directed to co-Defendant CCM and, thus, no
16 response is required. To the extent any response is required, Silvera denies the
17 allegations set forth in this paragraph.

18 202. FAC paragraph 202 is directed to co-Defendant CCM and, thus, no
19 response is required. To the extent any response is required, Silvera denies the
20 allegations set forth in this paragraph.

21 203. FAC paragraph 203 is directed to co-Defendant CCM and, thus, no
22 response is required. To the extent any response is required, Silvera denies the
23 allegations set forth in this paragraph.

24 204. FAC paragraph 204 is directed to co-Defendant CCM and, thus, no
25 response is required. To the extent any response is required, Silvera denies the
26 allegations set forth in this paragraph.

27 205. FAC paragraph 205 is directed to co-Defendant CCM and, thus, no
28 response is required. To the extent any response is required, Silvera denies the

1 allegations set forth in this paragraph.

2 206. Silvera repeats and incorporates by reference each of his responses to FAC
3 paragraphs 1–186.

4 207. FAC paragraph 207 calls for legal conclusions to which no responses are
5 necessary. Silvera denies the remaining allegations in this paragraph.

6 208. FAC paragraph 208 calls for legal conclusions to which no responses are
7 necessary. Silvera denies the remaining allegations in this paragraph.

8 209. FAC paragraph 209 calls for legal conclusions to which no responses are
9 necessary. Silvera denies the remaining allegations in this paragraph.

10 210. FAC paragraph 210 calls for legal conclusions to which no responses are
11 necessary. Silvera denies the remaining allegations in this paragraph.

12 211. FAC paragraph 211 calls for legal conclusions to which no responses are
13 necessary. Silvera denies the remaining allegations in this paragraph.

14 212. FAC paragraph 212 calls for legal conclusions to which no responses are
15 necessary. Silvera denies the remaining allegations in this paragraph.

16 213. FAC paragraph 213 calls for legal conclusions to which no responses are
17 necessary. Silvera denies the remaining allegations in this paragraph.

18 214. FAC paragraph 214 calls for legal conclusions to which no responses are
19 necessary. Silvera denies the remaining allegations in this paragraph.

20 215. FAC paragraph 215 calls for legal conclusions to which no responses are
21 necessary. Silvera denies the remaining allegations in this paragraph.

22 216. FAC paragraph 216 calls for legal conclusions to which no responses are
23 necessary. Silvera denies the remaining allegations in this paragraph.

24 217. FAC paragraph 217 calls for legal conclusions to which no responses are
25 necessary. Silvera denies the remaining allegations in this paragraph.

26 218. Denied.

27 219. FAC paragraph 219 calls for legal conclusions to which no responses are
28 necessary. Silvera denies the remaining allegations in this paragraph.

1 220. FAC paragraph 220 calls for legal conclusions to which no responses are
2 necessary. Silvera denies the remaining allegations in this paragraph.

3 221. FAC paragraph 221 calls for legal conclusions to which no responses are
4 necessary. Silvera denies the remaining allegations in this paragraph.

5 222. FAC paragraph 222 calls for legal conclusions to which no responses are
6 necessary. Silvera denies the remaining allegations in this paragraph.

7 223. FAC paragraph 223 calls for legal conclusions to which no responses are
8 necessary. Silvera denies the remaining allegations in this paragraph.

9 224. FAC paragraph 224 calls for legal conclusions to which no responses are
10 necessary. Silvera denies the remaining allegations in this paragraph.

11 225. Silvera repeats and incorporates by reference each of its responses to FAC
12 paragraphs 1–186.

13 226. FAC paragraph 226 calls for legal conclusions to which no responses are
14 necessary. Silvera denies the remaining allegations in this paragraph.

15 227. Denied.

16 228. Denied.

17 229. FAC paragraph 229 calls for legal conclusions to which no responses are
18 necessary. Silvera denies the remaining allegations in this paragraph.

19 230. Silvera admits he engaged in four in-person interactions, six Google Meet-
20 Up videoconferences, and one Microsoft Teams videoconference with Pray
21 representatives. Silvera denies that he engaged in 31 “Zoom calls.” Silvera denies the
22 remaining allegations in FAC paragraph 230.

23 231. Silvera admits he forwarded a news story detailing allegations of fraud
24 against Clinton. Silvera otherwise denies the allegations in FAC paragraph 231.

25 232. Denied

26 233. Denied.

27 234. FAC paragraph 234 calls for legal conclusions to which no responses are
28 necessary. Silvera denies the remaining allegations in this paragraph.

1 235. Denied.

2 236. Denied.

3 237. Denied.

4 238. Silvera repeats and incorporates by reference each of his responses to FAC
5 paragraphs 1–186.

6 239. FAC paragraph 239 calls for legal conclusions to which no responses are
7 necessary. Silvera denies the remaining allegations in this paragraph.

8 240. Denied.

9 241. Silvera admits that the text message conversations include the partial
10 quotations recounted in FAC paragraph 241, but denies any characterization of those
11 messages or any inference that the full meaning of those text conversations is conveyed
12 in this paragraph. Silvera otherwise denies the allegations in this paragraph.

13 242. Silvera admits that the text message conversations include the partial
14 quotations recounted in FAC paragraph 242, but denies any characterization of those
15 messages or any inference that the full meaning of those text conversations is conveyed
16 in this paragraph. Silvera admits the text message exchange in FAC paragraph 242 is
17 accurate.

18 243. Regarding the first sentence of FAC paragraph 243, Silvera admits he sent
19 the referenced email on July 303, 2023, and that it included the term “Pray Health
20 Feature Set.” Silvera denies the third sentence of FAC paragraph 243. Silvera denies
21 the remaining allegations in this paragraph.

22 244. Silvera admits that the email exchange includes the partial quotations
23 recounted in FAC paragraph 244, but denies any characterization of those messages or
24 any inference that the full meaning of those text conversations is conveyed in this
25 paragraph. Silvera otherwise denies the allegations in this paragraph.

26 245. Silvera admits that Gatena replied “Agreed!” as stated in FAC paragraph
27 245. Silvera otherwise denies the allegations in this paragraph.

28 246. Denied.

1 247. Denied.

2 248. Denied.

3 249. Denied.

4 250. Denied.

5 251. Denied.

6 252. Denied.

7 253. Denied.

8 Every allegation in the FAC that is not specifically and expressly admitted in this
9 Answer is hereby specifically and expressly denied.

10 **AFFIRMATIVE DEFENSES**

11 Without admitting any facts alleged by Plaintiff, Defendant asserts the following
12 separate and affirmative defenses to the FAC. By pleading the following defenses,
13 Defendant does not concede that he bears the burden of proof on any issue raised
14 through the pleadings. Defendant reserves the right to amend his Answer to add
15 additional Affirmative and Other Defenses consistent with the facts discovered in the
16 case.

17 **FIRST AFFIRMATIVE DEFENSE**

18 **Failure to State a Cause of Action**

19 1. The FAC, and each and every purported cause of action contained therein,
20 fails to allege facts sufficient to state a cause of action against Defendant.

21 **SECOND AFFIRMATIVE DEFENSE**

22 **Failure to Identify Trade Secret with Reasonable Particularity**

23 2. Defendant expressly denies that Plaintiff has identified any trade secret,
24 but to the extent Plaintiff has identified any trade secrets, Plaintiff's purported cause of
25 action for misappropriation of trade secrets is barred, in whole or in part, because
26 Plaintiff has not identified any alleged trade secrets with reasonable particularity.

1 **THIRD AFFIRMATIVE DEFENSE**

2 **No Trade Secret/Information Readily Ascertainable by Other Means**

3 Defendant expressly denies that Plaintiff has identified any trade secret,
4 but to the extent Plaintiff has identified any trade secrets, Plaintiff's purported cause of
5 action for misappropriation of trade secrets is barred, in whole or in part, because the
6 information purported to constitute Pray's "trade secrets" are not trade secrets because,
7 among other things, they are readily ascertainable by proper means.

8 **FOURTH AFFIRMATIVE DEFENSE**

9 **Information Independently Developed**

10 Defendant expressly denies that Plaintiff has identified any trade secrets,
11 but to the extent Plaintiff has identified any trade secrets, Plaintiff's purported cause of
12 action for misappropriation of trade secrets is barred, in whole or in part, because the
13 information purported to constitute Plaintiff's "trade secrets," was independently
14 developed by Defendant. This information includes, but is not limited to, that
15 information contained in "PowerPoint decks" referred to in the FAC. Defendant was
16 responsible for the creation of the decks themselves, as well as the majority of the
17 content within the decks. Specifically, both the "roadmap" and "marketing plan" in the
18 decks and claimed by Plaintiff to be its trade secrets were almost entirely derived from
19 Defendant. He created, drafted and revised those portions of the decks, among other
20 information provided to Plaintiff. Thus Plaintiff does not own, and is prohibited and
21 enjoined, from use of the intellectual property purported by Plaintiff to be trade secrets
22 in the FAC and otherwise created by Defendant.

23 **FIFTH AFFIRMATIVE DEFENSE**

24 **Alleged Trade Secrets Owned by Defendant**

25 Defendant expressly denies that Plaintiff has identified any trade secrets,
26 but to the extent Plaintiff has identified any trade secrets, Plaintiff's purported cause of
27 action for misappropriation of trade secrets is barred, in whole or in part, because at
28 least some of the information purported to constitute Plaintiff's "trade secrets," is

1 owned by Defendant. This information includes, but is not limited to, that information
2 contained in “PowerPoint decks” referred to in the FAC. Defendant was responsible
3 for the creation of the decks themselves, as well as the majority of the content within
4 the decks. He created, drafted and revised those portions of the decks, among other
5 information. Thus Plaintiff does not own, and is prohibited and enjoined, from use of
6 the intellectual property purported by Plaintiff to be trade secrets in the FAC and
7 otherwise created by Defendant.

8 **SIXTH AFFIRMATIVE DEFENSE**

9 **Inadequate Protection of Information**

10 6. Defendant expressly denies that Plaintiff has identified any trade secrets,
11 but to the extent Plaintiff has identified any trade secrets, Plaintiff’s purported cause of
12 action for misappropriation of trade secrets is barred, in whole or in part, because
13 Plaintiff did not make reasonable efforts to protect or maintain the secrecy of the
14 information.

15 **SEVENTH AFFIRMATIVE DEFENSE**

16 **No Injury-In-Fact**

17 7. Each cause of action alleged in the FAC and the elements of relief sought
18 therein are barred, in whole or in part, because Plaintiff has not suffered injury-in-fact
19 from the conduct described in the FAC.

20 **EIGHTH AFFIRMATIVE DEFENSE**

21 **No Causation for Alleged Loss**

22 8. Plaintiff’s claims are barred, in whole or in part, because if any loss was
23 suffered by Plaintiff, which is expressly denied, that loss did not result from any
24 purported breach by Defendant.

1 **NINTH AFFIRMATIVE DEFENSE**

2 **Proximate Cause**

3 9. Each cause of action alleged in the FAC and the elements of relief sought
4 therein are barred, in whole or in part, because Plaintiff's alleged injuries and damages
5 were not legally or proximately caused by any acts or omissions by Defendant.

6 **TENTH AFFIRMATIVE DEFENSE**

7 **Comparative Fault/Contribution**

8 10. Each cause of action alleged in the FAC and the elements of relief sought
9 therein are barred, in whole or in part, because Plaintiff's alleged injuries and damages
10 were not legally or proximately caused by any acts or omissions by Defendant and/or
11 were caused, if at all, by the conduct of Plaintiff, or others. Defendant's liability to
12 Plaintiff, to the extent any liability exists, is either precluded in its entirety or reduced
13 based on the liability of others.

14 **ELEVENTH AFFIRMATIVE DEFENSE**

15 **Independent, Intervening, or Superseding Cause / No Right to Control**

16 11. The losses, injuries, and damages, if any, incurred by Plaintiff are the result
17 of superseding or intervening causes arising from acts or omissions of persons or entities
18 that Defendant neither controlled nor had the right to control, and those losses, injuries,
19 or damages were not directly, legally, or proximately caused by any alleged act,
20 omission, or other conduct, service, or product of Defendant.

21 **TWELFTH AFFIRMATIVE DEFENSE**

22 **No Exemplary or Punitive Damages**

23 12. Plaintiff is precluded from recovering exemplary or punitive damages from
24 the Defendants under the applicable provisions of the law, including without limitation,
25 California Civil Code § 3294, the United States, and/or the California Constitution.

1 **THIRTEENTH AFFIRMATIVE DEFENSE**

2 **Speculative and Uncertain Damages**

3 13. The FAC, and each and every purported cause of action contained therein,
4 are barred because the alleged damages, if any, are speculative and uncertain.

5 **FOURTEENTH AFFIRMATIVE DEFENSE**

6 **Good Faith**

7 14. Plaintiff's claims are barred, in whole or in part, because Defendant at all
8 times acted in good faith and consistent with reasonable care.

9 **FIFTEENTH AFFIRMATIVE DEFENSE**

10 **No Attorneys' Fees and Costs**

11 15. Plaintiff has failed to state facts sufficient to provide a legal or factual basis
12 to award attorneys' fees or costs to Plaintiff.

13 **SIXTEENTH AFFIRMATIVE DEFENSE**

14 **Plaintiff's Responsibility**

15 16. Plaintiff's claims are barred, in whole or in part, because to the extent
16 Plaintiff suffered any compensable damages, Plaintiff's own actions and/or omissions
17 and/or failure to mitigate caused, contributed, or resulted in the damages of which
18 Plaintiff complains. Recovery against Defendant, if any, must be reduced or precluded
19 because of Plaintiff's own actions.

20 **SEVENTEENTH AFFIRMATIVE DEFENSE**

21 **Failure to Mitigate**

22 17. Plaintiff's claims are barred to the extent Plaintiff has acted unreasonably
23 in failing to mitigate alleged damages, if any, against Defendant, and therefore, any
24 such damages must be reduced or eliminated in accordance with the degree to which
25 any such damages could have been mitigated by reasonable effort.

1 **EIGHTEENTH AFFIRMATIVE DEFENSE**

2 **Unjust Enrichment**

3 18. The FAC, and each and every purported cause of action contained therein,
4 is barred, in whole or in part, because any award to Plaintiff in this action would
5 constitute unjust enrichment.

6 **NINETEENTH AFFIRMATIVE DEFENSE**

7 **Unclean Hands**

8 19. The FAC, and each and every purported cause of action contained therein
9 is barred, in whole or in part, by the doctrine of unclean hands.

10 **TWENTIETH AFFIRMATIVE DEFENSE**

11 **Waiver**

12 20. Plaintiff's claims are barred, in whole or in part, to the extent Plaintiff
13 waived any right to assert the claims in the FAC.

14 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

15 **Reservation of Defenses**

16 21. Defendant has insufficient knowledge or information at this time upon
17 which to form a belief as to whether he may have additional, and as yet unstated,
18 affirmative defenses available, and Defendant reserves the right to assert such additional
19 defenses in the event discovery, investigation or analysis indicates they are proper.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Defendant prays as follows:

- 22 A. That Plaintiff take nothing by reason of the FAC;
- 23 B. That the FAC be dismissed upon the merits and with prejudice;
- 24 C. That Defendant be awarded the costs of suit incurred herein, including
25 reasonable attorney fees as appropriate; and
- 26 D. That Defendant be awarded such additional and further relief as the
27 Court deems just and proper.

1 DATED: June 24, 2024

2 Respectfully submitted,

3 **BOIES SCHILLER FLEXNER LLP**

4 */s/ Melissa K. Zonne*
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12 **DEMAND FOR JURY TRIAL**

13 Silvera hereby demands a trial by jury on all claims so triable.

14 Dated: June 24, 2024

15 BOIES SCHILER FLEXNER LLP

16 By: */s/ Melissa K. Zonne*
17 Jesse M. Panuccio
18 Melissa K. Zonne
M. Logan Wright

19 Attorneys for Defendant
20 Evelio Silvera